

APPEAL NO. 023268
FILED FEBRUARY 4, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 26, 2002. The hearing officer determined that the appellant's (claimant) compensable (inhalation) injury did not include the following diagnosed conditions: toxic encephalopathy; toxic effects of petrochemicals and solvents; chemical sensitivity; allergic rhinitis; chronic sinusitis; chronic fatigue; fibromyalgia; immune deregulation; memory loss; chest congestion; food sensitivities; or organ system dysfunction of the central nervous system, the autonomic nervous system, the immune system, and the musculoskeletal system (collectively referred to as diagnosed conditions).

The claimant appealed, contending that the hearing officer "went out of his way to discredit the extent of Claimant's injury," and that the reports and testimony of Dr. R and the reports of Dr. D, and Dr. M are "sufficient to overrule the Hearing Officer's determinations." The respondent (carrier) responds with its own points, urging affirmance.

DECISION

Affirmed.

The claimant was a baggage handler for an airline. It is undisputed that the claimant was exposed to fumes from some smoldering insulation material for perhaps an hour on _____. The carrier accepted an inhalation injury. The claimant was seen at a nurse's station on _____, was sent home, and worked at light duty the next day. The claimant was on vacation from June 18 through the end of June 2001, when he returned to his regular job. The claimant saw his family doctor on July 16, 2001, and that doctor referred him to Dr. R. The claimant continued to work until taken off work by Dr. R on September 6, 2001. The claimant apparently saw Dr. R for the first time on August 22, 2001, and, in a report dated September 9, 2001, Dr. R named the diagnosed conditions. The exact chemicals and concentration of matter the claimant may have inhaled was not identified. The carrier attacked Dr. R's qualifications and opinion and submitted expert medical evidence of its own.

At issue is whether the compensable inhalation injury of _____, extended to include the diagnosed conditions. Where, as here, the causal connection is not a matter of general knowledge, it must be proven to a reasonable medical probability by expert medical evidence. Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980); Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 94254, decided April 14, 1994. Whether the necessary causation exists is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 021402, decided July

18, 2002; Texas Workers' Compensation Commission Appeal No. 020957, decided June 5, 2002.

There was conflicting expert medical evidence presented and it is the hearing officer, as the sole judge of the weight and credibility of the evidence, to determine the weight to be given to the expert medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Nothing in our review of the record indicates that the hearing officer's determinations are so against the great weight of the evidence as to be clearly wrong and unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Terri Kay Oliver
Appeals Judge